

**REMARKS**

Reconsideration of this application, as amended, is respectfully requested.

Claims 1-16 were pending in this application, with Claims 1, 6, 9, 12 and 15 being independent. As indicated above, Claims 1, 3, 5-13 and 15-16 have been amended.

In response to the objection to the drawings, Applicants enclosed Replacement Figs. 1, 2, and 3, which are amended to include the legend "Prior Art", pursuant to the Examiner's request. It is believed that the Replacement Figs. 1, 2 and 3 overcome the Examiner's objection.

In the Office Action, Claims 1, 4, 6-7 and 9 are objected to because of informalities. Claims 1 and 7 are objected to due to lack of antecedent basis. It is believed that the amendments to the Claim 1 as set forth above overcome the objections to Claim 1 for the informalities.

Regarding the objection to Claim 7, however, Applicants believe that the Examiner is incorrect. That is, "the channel quality information indicator" in step (b) has antecedent basis from Claim 6.

Further, the grammatical typographical errors in Claims 5 and 9 have corrected, as set forth above.

Additionally, the disclosure is objected to because of the following informalities: In line of paragraph 8 of specification, "a forward channel from the selected subscribe station" appears to be a reverse channel..." It is respectfully submitted that the disclosure is correct, that is, "forward channel" is correct.

Claims 1-16 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Pietraski* (U.S.2004/0142698) in view of *Cudak et al.* (U.S. 2005/0289256 A1).

Regarding the §103(a) rejection of independent Claim 1, as being unpatentable over *Pietraski* in view of *Cudak*, the Examiner admits that *Pietraski* does not disclose “determining whether a channel quality information indicator is included in the allocation information, the channel quality information indicator represents a channel quality information report”, but asserts that *Cudak* does, and that it would have been obvious to combine the teachings of *Cudak* into the method of *Pietraski*.

To establish a prima facie case of obviousness under U.S.C. §103(a) based upon a combination of references, the cited combination of references must disclose, teach or suggest all elements/features/steps of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988) and *In re Keller*, 208 U.S.P.Q.2d 871, 881(C.C.P.A. 1981).

*Cudak* is directed to an apparatus and method for transmitting/receiving channel quality information (CQI) in a communication system having a frame including subchannels corresponding to the same frequency reuse factor or different frequency reuse factors. A base station (BS) allocates at least one of the subchannels in the frame to a subscriber station (SS), and sends a transmission request for a CQI for a subchannel desired to be received, to the SS. The SS measures channel quality for individual subchannels requested by the BS in response to the CQI request, and transmits the measured channel quality to the BS. However, *Cudak* does not disclose “determining whether a channel quality information indicator is included in the allocation information”, as recited Claim 1. Therefore, it is respectfully submitted that the interpretation asserted by the Examiner is not supported by the disclosure of *Cudak*. That is, Applicants can find no section of *Cudak* that teaches the determining step as recited in independent Claim 1.

Further, the Examiner asserts that Fig. 3 and paragraph [0030] of *Pietraski* teaches, “generating the channel quality information by measuring the radio channel for communicating with

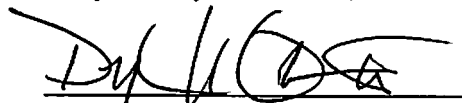
the base station, when the channel quality information indicator is included in the allocation information”, as recited in independent Claim 1. However, Applicants believe that there is no portion of the citations of *Pietraski*, or any other section of *Pietraski*, which teaches this recitation of Claim 1. Accordingly, *Pietraski* has failed to remedy the deficiencies of *Cudak* described above.

Further, independent Claims 6, 9, 12 and 15 recite similar features as those discussed above regarding independent Claim 1. For the same reasons argued above for Claim 1, it is respectfully submitted that the Examiner is also incorrect in rejecting Claims 6, 9, 12 and 15. Therefore, based upon the amendments and arguments above, it is respectfully submitted that amended independent Claims 1, 6, 9, 12 and 15 are in condition for allowance.

While not conceding the patentability of the dependent claims, *per se*, Applicants believe, dependent Claims 2-5, 7-8, 13-14 and 16 are also patentable at least for being dependent from independent Claims 1, 6, 9, 12 and 15, respectively.

Accordingly, all of the claims pending in the Application, namely, Claims 1-16 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants’ attorney at the number given below.

Respectfully submitted,



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Enclosures: Submission of Replacement Drawing Sheets